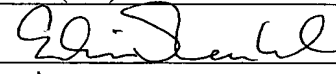
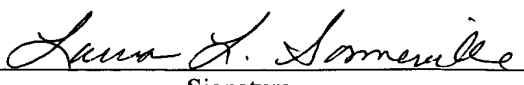


IFIN 3 1653

|  |   |                        |                                 |
|--|---|------------------------|---------------------------------|
| <b>TRANSMITTAL FORM</b><br><i>(to be used for all correspondence after initial filing)</i> |   | Application Number     | 09/825,414                      |
|  |   | Filing Date            | 4/3/01                          |
|  |   | First Named Inventor   | Collmer et al.                  |
|  |   | Group Art Unit         | 1653                            |
|  |   | Examiner Name          | Robert A. Wax                   |
| Total Number of Pages in This Submission   | 4 | Attorney Docket Number | 19603/3243 (CRF D-2601C) 40,087 |

| ENCLOSURES (check all that apply)   |   |  |
|---|---|--|
| <input checked="" type="checkbox"/> Fee Transmittal Form<br><input checked="" type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment / Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input checked="" type="checkbox"/> Information Disclosure Statement (With Copies of 7 References)<br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Response to Missing Parts/ Incomplete Application<br><input type="checkbox"/> A copy of the Notice to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Assignment Papers (for an Application)<br><input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Declaration and Power of Attorney<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance Communication to Group<br><input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input type="checkbox"/> Application Data Sheet<br><input type="checkbox"/> Request for Corrected Filing Receipt with Enclosures<br><input checked="" type="checkbox"/> A self-addressed, prepaid postcard for acknowledging receipt<br><input type="checkbox"/> Other Enclosure(s) (please identify below): |
| Remarks   |   | <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees required or credit any overpayments to Deposit Account No. 14-1138 for the above identified docket number.   |

| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT |  |
|--|--|
| Firm or Individual name                    | Edwin V. Merkel<br>Nixon Peabody LLP<br>Clinton Square, P.O. Box 31051<br>Rochester, New York 14603-1051<br>Telephone: (585) 263-1128<br>Fax: (585) 263-1600 |
| Signature                                  |  Registration No. 40,087  |
| Date                                       | July 2, 2004   |

| CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]   |  |
|--|--|
| I hereby certify that this correspondence is being:  |  |
| <input checked="" type="checkbox"/> deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 |  |
| <input type="checkbox"/> transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) _____  |  |
| <u>7/2/04</u><br>Date  | <br>Signature<br>Laura L. Sonnevile<br>Typed or printed name |

# FEE TRANSMITTAL FOR FY 2004

Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT

(\$ 180)

Complete if Known

Application Number

09/825,414

Filing Date

4/3/01

First Named Inventor

Collmer et al.

Examiner Name

Robert A. Wax

Art Unit

1653

Attorney Docket No.

19603/3243 (CRF D-2601C)

## METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number

14-1138

Deposit Account Name

Nixon Peabody LLP

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

| Large Entity Fee Code | Large Entity Fee (\$) | Small Entity Fee Code | Small Entity Fee (\$) | Fee Description        | Fee Paid |
|-----------------------|-----------------------|-----------------------|-----------------------|------------------------|----------|
| 1001                  | 770                   | 2001                  | 385                   | Utility filing fee     |          |
| 1002                  | 340                   | 2002                  | 170                   | Design filing fee      |          |
| 1003                  | 530                   | 2003                  | 265                   | Plant filing fee       |          |
| 1004                  | 770                   | 2004                  | 385                   | Reissue filing fee     |          |
| 1005                  | 160                   | 2005                  | 80                    | Provisional filing fee |          |

SUBTOTAL (1) (\$ 0)

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

| Total Claims       | Extra Claims | Fee from below | Fee Paid |
|--------------------|--------------|----------------|----------|
| -20** =            | X            |                | 0        |
| Independent Claims | -3** =       | X              | 0        |
| Multiple Dependent | X            |                | 0        |

| Large Entity Fee Code | Large Entity Fee (\$) | Small Entity Fee Code | Small Entity Fee (\$) | Fee Description  |
|-----------------------|-----------------------|-----------------------|-----------------------|--|
| 1202                  | 18                    | 2202                  | 9                     | Claims in excess of 20                                     |
| 1201                  | 86                    | 2201                  | 43                    | Independent claims in excess of 3                          |
| 1203                  | 290                   | 2203                  | 145                   | Multiple dependent claim, if not paid                      |
| 1204                  | 86                    | 2204                  | 43                    | ** Reissue independent claims over original patent         |
| 1205                  | 18                    | 2205                  | 9                     | ** Reissue claims in excess of 20 and over original patent |

SUBTOTAL (2) (\$ 0)

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

| Large Entity Fee Code | Large Entity Fee (\$) | Small Entity Fee Code | Small Entity Fee (\$) | Fee Description  |
|-----------------------|-----------------------|-----------------------|-----------------------|--|
| 1051                  | 130                   | 2051                  | 65                    | Surcharge - late filing fee or oath  |
| 1052                  | 50                    | 2052                  | 25                    | Surcharge - late provisional filing fee or cover sheet                     |
| 1053                  | 130                   | 1053                  | 130                   | Non-English specification  |
| 1812                  | 2,520                 | 1812                  | 2,520                 | For filing a request for <i>ex parte</i> reexamination                     |
| 1804                  | 920*                  | 1804                  | 920*                  | Requesting publication of SIR prior to Examiner action                     |
| 1805                  | 1,840*                | 1805                  | 1,840*                | Requesting publication of SIR after Examiner action                        |
| 1251                  | 110                   | 2251                  | 55                    | Extension for reply within first month                                     |
| 1252                  | 420                   | 2252                  | 210                   | Extension for reply within second month                                    |
| 1253                  | 950                   | 2253                  | 475                   | Extension for reply within third month                                     |
| 1254                  | 1,480                 | 2254                  | 740                   | Extension for reply within fourth month                                    |
| 1255                  | 2,010                 | 2255                  | 1,005                 | Extension for reply within fifth month                                     |
| 1401                  | 330                   | 2401                  | 165                   | Notice of Appeal   |
| 1402                  | 330                   | 2402                  | 165                   | Filing a brief in support of an appeal                                     |
| 1403                  | 290                   | 2403                  | 145                   | Request for oral hearing   |
| 1451                  | 1,510                 | 1451                  | 1,510                 | Petition to institute a public use proceeding                              |
| 1452                  | 110                   | 2452                  | 55                    | Petition to revive - unavoidable   |
| 1453                  | 1,330                 | 2453                  | 665                   | Petition to revive - unintentional   |
| 1501                  | 1,330                 | 2501                  | 665                   | Utility issue fee (or reissue)   |
| 1502                  | 480                   | 2502                  | 240                   | Design issue fee   |
| 1503                  | 640                   | 2503                  | 320                   | Plant issue fee  |
| 1460                  | 130                   | 1460                  | 130                   | Petitions to the Commissioner  |
| 1807                  | 50                    | 1807                  | 50                    | Processing fee under 37 CFR 1.17(q)  |
| 1806                  | 180                   | 1806                  | 180                   | Submission of Information Disclosure Stmt                                  |
| 8021                  | 40                    | 8021                  | 40                    | Recording each patent assignment per property (times number of properties) |
| 1809                  | 770                   | 2809                  | 385                   | Filing a submission after final rejection (37 CFR 1.129(a))                |
| 1810                  | 770                   | 2810                  | 385                   | For each additional invention to be examined (37 CFR 1.129(b))             |
| 1801                  | 770                   | 2801                  | 385                   | Request for Continued Examination (RCE)                                    |
| 1802                  | 900                   | 1802                  | 900                   | Request for expedited examination of a design application                  |

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 180)

## CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) \_\_\_\_\_

Date

Signature

Laura L. Sonnevile

Typed or printed name

## SUBMITTED BY

Name (Print/Type)

Edwin V. Merkel

Registration No.  
(Attorney/Agent)

40,087

Complete (if applicable)

Telephone

(585) 263-1128

Signature

*Edwin V. Merkel*

Date

July 2, 2004

SEND TO: Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

|              |                                     |   |               |
|--------------|-------------------------------------|---|---------------|
| Applicants : | Collmer et al.                      | ) | Examiner:     |
|              |                                     | ) | Robert A. Wax |
| Serial No. : | 09/825,414                          | ) |               |
| Cnfrm. No. : | 2043                                | ) | Art Unit:     |
|              |                                     | ) | 1653          |
| Filed :      | April 3, 2001                       | ) |               |
| For :        | DNA MOLECULES AND POLYPEPTIDES OF   | ) |               |
|              | <i>PSEUDOMONAS SYRINGAE</i> HRP     | ) |               |
|              | PATHOGENICITY ISLAND AND THEIR USES | ) |               |

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT  
UNDER 37 CFR § 1.97(d)**

**Mail Stop:**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

07/08/2004 NROCHA1 00000011 09825414

01 FC:1806

100.00 OP

Dear Sir:

This information disclosure statement is being filed under 37 CFR § 1.97(d), given that a Notice of Allowance has already been received by applicants.


The references listed on the accompanying PTO-1449 form were first cited in a search report (copy enclosed) from the European Patent Office for a counterpart European patent application, not more than three months from the submission date of this paper.

Two of the references listed in the attached search report are not listed on the accompanying form, because Alfano et al., (*Molecular Plant-Microbe Interactions*, 10(5):580-588 (1997)) and van Dijk et al., (*Molecular Microbiology*, 44(6):1469-1481 (2002)), are already of record.

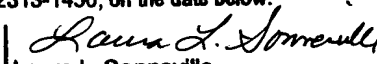
Enclosed herewith is a check to cover the fee set forth under 37 CFR §1.17(p). If any additional fees are required, the U.S. Patent and Trademark Office is authorized to charge deposit account 14-1138.

Respectfully submitted,

Date: July 1, 2004

  
Edwin V. Merkel  
Registration No. 40,087

NIXON PEABODY LLP  
Clinton Square, P.O. Box 31051  
Rochester, New York 14603-1051  
Telephone: (585) 263-1128  
Facsimile: (585) 263-1600  
R764598.1

|  |   |
|--|---|
| <b>Certificate of Mailing - 37 CFR 1.8(a)</b>  |   |
| I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:<br>Commissioner for Patents P.O. Box 1450<br>Alexandria, VA 22313-1450, on the date below. |   |
| Date <u>7/2/04</u>   | <br>Laura L. Sonnevile |



|   |   |    |   |                          |                          |
|---|---|----|---|--------------------------|--------------------------|
| <b>INFORMATION DISCLOSURE<br/>STATEMENT BY APPLICANT</b><br>(use as many sheets as necessary) |   |    |   | <b>Complete if Known</b> |                          |
|   |   |    |   | Application Number       | 09/825,414               |
|   |   |    |   | Filing Date              | April 3, 2001            |
|   |   |    |   | First Named Inventor     | Collmer et al.           |
|   |   |    |   | Art Unit                 | 1653                     |
|   |   |    |   | Examiner Name            | Robert A. Wax            |
| Sheet   | 1 | of | 1 | Attorney Docket Number   | 19603/3243 (CRF D-2601C) |

| U.S. PATENT DOCUMENTS          |                       |  |                                |  |   |
|--------------------------------|-----------------------|--|--------------------------------|--|---|
| Examiner Initials <sup>*</sup> | Cite No. <sup>1</sup> | U.S. Patent Document                       | Publication Date<br>MM-DD-YYYY | Name of Patentee or<br>Applicant of Cited Document | Pages, Columns, Lines, Where<br>Relevant Passages or Relevant<br>Figures Appear |
|                                |                       | Number - Kind Code <sup>2</sup> (if known) |                                |  |   |
|                                |                       | US-  |                                |  |   |
|                                |                       | US-  |                                |  |   |
|                                |                       | US-  |                                |  |   |

| FOREIGN PATENT DOCUMENTS       |                       |   |                                |  |   |                |
|--------------------------------|-----------------------|---|--------------------------------|--|---|----------------|
| Examiner Initials <sup>*</sup> | Cite No. <sup>1</sup> | Foreign Patent Document   | Publication Date<br>MM-DD-YYYY | Name of Patentee or<br>Applicant of Cited Document | Pages, Columns, Lines, Where<br>Relevant Passages or Relevant<br>Figures Appear | T <sup>6</sup> |
|                                |                       | Country Code <sup>3</sup> Number <sup>4</sup> Kind Code <sup>5</sup> (if known) |                                |  |   |                |
|                                | 1                     | WO 98/32844   | 07/30/1998                     | WIPO   |   |                |
|                                |                       |   |                                |  |   |                |
|                                |                       |   |                                |  |   |                |

| OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS |                       |  |                |
|---|-----------------------|--|----------------|
| Examiner Initials <sup>*</sup>                    | Cite No. <sup>1</sup> | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.                          | T <sup>2</sup> |
|   | 2                     | Alfano et al., "The Type III (Hrp) Secretion Pathway of Plant Pathogenic Bacteria: Trafficking Harpins, Avr Proteins, and Death," <i>Journal of Bacteriology</i> , 179(18):5655-5662 (1997)  |                |
|   | 3                     | Bogdanove et al., "Homology and Functional Similarity of an <i>hrp</i> -linked Pathogenicity locus, <i>dspEF</i> , of <i>Erwinia amylovora</i> and the Avirulence Locus <i>avrE</i> of <i>Pseudomonas syringae</i> Pathovar Tomato," <i>Proc. Natl. Acad. Sci.</i> , 95:1325-1330 (1998) |                |
|   | 4                     | He et al., "Pseudomonas Syringae pv. Syringae Harpin <sub>PS</sub> : A Protein That is Secreted via the Hrp Pathway and Elicits the Hypersensitive Response in Plants," <i>Cell</i> , 73:1255-1266 (1993)  |                |
|   | 5                     | Leach et al., "Bacterial Avirulence Genes," <i>Annu. Rev. of Phytopathol.</i> , 34:153-179 (1996)  |                |
|   | 6                     | Rommens et al., "Intergeneric Transfer and Functional Expression of the Tomato Disease Resistance Gene <i>Pto</i> ," <i>The Plant Cell</i> , 7:1537-1544 (1995)  |                |
|   | 7                     | GenBank Accession No. U97505 (1998)  |                |

|                    |                 |
|--------------------|-----------------|
| Examiner Signature | Date Considered |
|--------------------|-----------------|

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached.

<sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> Applicant is to place a check mark here if English language Translation is attached.

Burden Hour Statement: This form is estimated to take 2.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.